IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 10247 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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REKHABEN NILLESHBHAI MAHESHWARI AND OTHERS
Versus
STATE OF GUJARAT AND ANOTHER

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Appearance :
MR BK OZA for Applicants.
MR AY KOGJE, APP for Respondent No.1.
MR BHARAT JANI for Respondent No.2.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 25/04/2007

ORAL JUDGMENT

1) This application has been filed by the applicants – original accused seeking a direction for transfer of Criminal Case No.2018/2005 arising

out of C.R.No.II-140/2005 filed before Patan Town Police Station from the Court of Judicial Magistrate, First Class, Patan before whom the same is pending, to Court No.19, Metropolitan Magistrate Court, Ahmedabad in following factual background.

2) The applicants are the original accused in aforesaid criminal case bearing C.R.No.II-140/2005 filed before Patan Town Police Station on 9th May 2005, by one Naynaben Kamleshbhai Maheshwari. The allegations against the applicants include of having committed offences punishable under Section 323, 504, 506 (1) read with Section 114 of the Indian Penal Code.

2.1) The applicants seek transfer of the case only on the ground that another case bearing Criminal Misc. Application No.1254/2005 is pending before the Family Court, Ahmedabad in which also the applicants are involved. It is submitted that applicant no.1 Rekhaben has strained marital relations with her husband, which has led to this series of criminal cases being filed against her and other family members. Learned advocate Shri Oza for the applicants submitted that to attend the said criminal case, the applicants have to go to Patan from Ahmedabad every now and then leading to inconvenience and expenses.

3) Only on this ground, criminal case cannot be transferred. Patan is not at a great distance from Ahmedabad. No special reasons are stated why at such a late stage when the trial has already commenced, the case should be transferred. The complainant is also a lady and would have to visit Ahmedabad to attend to the trial if the case is transferred. The witnesses are also mainly from Patan. No special ground is made out for granting this request. The application is, therefore, dismissed. Rule is discharged.

(Akil Kureshi, J.)

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